

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Richard E. and Jucymara Reed,
Petitioners-Appellants,

v.

Dickinson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-30-0114
Parcel No. 07-09-154-015

On January 13, 2010, the above-captioned appeal came on for telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellants, Richard E. and Jucymara Reed, were self-represented and submitted evidence in support of their petition. The Board of Review designated Assistant County Attorney Lonnie Saunders as its legal representative. It certified its record. The Appeal Board now having examined the entire record, heard the testimony, and being advised, finds.

Findings of Fact

Richard E. and Jucymara Reed, owners of property located at 1305 34th Street, Spirit Lake, Iowa, appeal from the Dickinson County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story, frame dwelling having 1211 square feet of living area, a full basement with 1000 square feet finished, and an 840 square-foot attached garage. The dwelling was built in 2006 and sits on a 0.258 acre site.

The real estate was classified residential for the January 1, 2009, assessment and valued at \$225,000; representing \$21,900 in land value and \$203,100 in improvement value. The Reeds protested to the Board of Review on the ground that the property's assessment is not equitable with the assessments of like property in the taxing district under Iowa Code section 441.37(1)(a). We note,

however, that the gist of the appeal is really that the property was assessed for more than authorized by law under Iowa Code section 441.22(1)(b) because the protest to the Board of Review included a written statement that the "property was appraised on April 15, 2009." To support this, the Reeds submitted a portion of the appraisal that indicated that the assessment should be \$222,000. In response to the protest, the Board of Review notified the Reeds the January 1, 2009, assessment would not be changed, finding that "Insufficient evidence presented to prove assessment is excessive." This is further evidence that the Board of Review was presented and considered the claim of over-assessed.

The Reeds then filed an appeal with this Board. We will only consider the ground that the property is assessed for more than authorized by law. The Reeds seek \$3000 in relief. They value the property at \$222,000.

The Reeds submitted two pages of a six-page appraisal that was unsigned and dated April, 2009, by Schmidt Appraisal. The appraisal report using the cost approach values the property at \$238,494, and using the sales comparison approach the median adjusted sale was \$222,000, which was final estimate of value for the subject property. Mr. Reed is of the opinion that the appraisal estimate of market value is the fair market value and should be the assessed value. He believes the appraisal was by an independent appraiser and therefore unbiased. We note that the Reed purchased the subject property for \$247,845 in April 2007.

Stephanie Sohn, an appraiser for Dickinson County, testified on behalf of the Board of Review. The Board of Review submitted three properties that, in its opinion, were comparable to the subject property. The three sales range in value from \$225,700 to \$235,900.

The Board of Review believes an appraisal for financial purposes is not a reliable source to determine market value and tends to be below market value. It, therefore, rejected the appraisal. The Board of Review witness testified that the first comparable in the appraisal was a sale by a relocation

company. The other two comparables were dwellings built by a different builder and of lesser quality even though they have more square feet of living area.

The Board of Review believes the comparables it submitted support the assessment because they are in the same neighborhood. The Board of Review also submitted sales ratio information that calculates a sales median ratio of 94.2%. However, we find the sales ratio study has no bearing on an individual assessment.

Although Mr. Reed submitted an appraisal to be used for mortgage refinancing purposes as reflective of market value, it was four months after the assessment date. The fact that the appraisal was for another purpose does not exclude the appraisal as evidence as to the market value of the subject property. However, the fact that the appraisal does not reflect the assessment date as of January 1, 2009, and lacked four pages of the report to determine the estimate of value, made the appraisal less reliable.

Reviewing all the evidence, we find the appraisal by itself submitted by Mr. Reed did not prove the January 1, 2009, assessment was assessed for more than authorized by law. We find the evidence submitted by the Board of Review to be the best evidence and the assessment falls within the range of value as adjusted by the appraisal submitted. This Board also finds the evidence submitted by the Board of Review to be reliable and supports the assessment.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only

those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code section 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

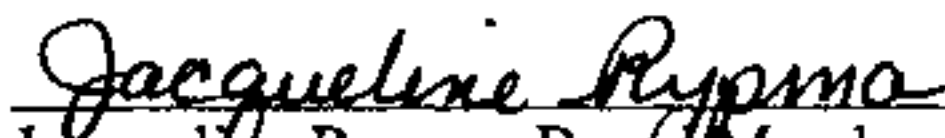
The Reeds essentially challenged their assessment on the ground that the property was over-assessed. In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.27(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekoloo v. Bd. of Review of the City of Clinton*, 529 NW2d 275, 277 (Iowa 1995). As stated in the findings, although the mortgage appraisal may be an indication of the market value of the subject property, because it was completed after the assessment date and was incomplete, we decline to solely rely on it in the absence of other evidence of market value.


We, therefore, affirm the Richard E. and Jucymara Reed property assessment as determined by the Board of Review. The assessment of the subject property as of January 1, 2009, is \$225,000; representing \$21,900 in land value and \$203,100 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Dickinson County Board of Review is affirmed.

Dated this 7 day of February, 2010.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>2-5</u> , 2010.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	